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1 A bill to be entitled
2 An act relating to scholarship program accountability;
3 amending s. 1002.39, F.S., relating to the John M. McKay
4 Scholarships for Students with Disabilities Program;
5 revising definition of the term "students with
6 disabilities"; revising student eligibility requirements
7 for receipt of a scholarship and restricting eligibility
8 therefor; providing for term of a scholarship; revising
9 and adding school district obligations and clarifying
10 parental options; revising and adding Department of
11 Education obligations, including verification of
12 eligibility of private schools and establishment of a
13 process for notification of violations, subsequent inquiry
14 or investigation, and certification of compliance by
15 private schools; providing Commissioner of Education
16 authority and obligations, including the denial,
17 suspension, or revocation of a private school's
18 participation in the scholarship program and procedures
19 and timelines therefor; revising private school
20 eligibility and obligations, including compliance with
21 specified laws and academic accountability to the parent;
22 revising parent and student responsibilities for
23 scholarship program participation; prohibiting power of
24 attorney for endorsing a scholarship warrant; revising
25 provisions relating to scholarship funding and payment;
26 providing funding and payment requirements for former
27 Florida School for the Deaf and the Blind students and for
28 students exiting a Department of Juvenile Justice program;
29 providing Department of Financial Services obligations;

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30 amending s. 220.187, F.S., relating to credits for
31 contributions to nonprofit scholarship-funding
32 organizations; revising and providing definitions; naming
33 the Corporate Income Tax Credit Scholarship Program;
34 providing student eligibility requirements for receipt of
35 a corporate income tax credit scholarship and restricting
36 eligibility therefor; revising provisions relating to tax
37 credit for small businesses; providing for adjustment of
38 the total amount of tax credits and carryforward of tax
39 credits; providing for rescindment of tax credit
40 allocation; revising and adding obligations of eligible
41 nonprofit scholarship-funding organizations, including
42 compliance with requirements for background checks of
43 owners and operators, scholarship-funding organization
44 ownership or operation, carryforward and transfer of
45 funds, audits, and reports; specifying background
46 screening requirements and procedures; requiring certain
47 information to remain confidential in accordance with s.
48 213.053, F.S.; revising and adding parent and student
49 responsibilities for scholarship program participation,
50 including compliance with a private school's published
51 policies, participation in student academic assessment,
52 and restrictive endorsement of scholarship warrants;
53 prohibiting power of attorney for endorsing a scholarship
54 warrant; revising and adding private school eligibility
55 requirements and obligations, including compliance with
56 specified laws and academic accountability to the parent;
57 revising and adding Department of Education obligations,
58 including verification of eligibility of program

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59 participants, establishment of a process for notification
60 of violations, subsequent inquiry or investigation,
61 certification of compliance by private schools, and
62 selection of a research organization to analyze student
63 performance data; providing Commissioner of Education
64 authority and obligations, including the denial,
65 suspension, or revocation of a private school's
66 participation in the scholarship program and procedures
67 and timelines therefor; revising and adding provisions
68 relating to scholarship funding and payment, including the
69 amount of a scholarship and the payment process; requiring
70 adoption of rules; creating s. 1002.421, F.S., relating to
71 rights and obligations of private schools participating in
72 state school choice scholarship programs; providing
73 requirements for participation in a scholarship program,
74 including compliance with specified state, local, and
75 federal laws and demonstration of fiscal soundness;
76 requiring restrictive endorsement of a scholarship warrant
77 and prohibiting power of attorney for endorsing a warrant;
78 requiring employment of qualified teachers and background
79 screening of employees and contracted personnel with
80 direct student contact; specifying background screening
81 requirements and procedures; providing scope of authority;
82 requiring adoption of rules; providing an effective date.

83
84 Be It Enacted by the Legislature of the State of Florida:

85
86 Section 1. Section 1002.39, Florida Statutes, is amended to
87 read:

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1002.39 The John M. McKay Scholarships for Students with Disabilities Program.--There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program, ~~pursuant to this section.~~

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.--The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the State Board of Education. Students with disabilities include K-12 students who are documented as having mental retardation; a mentally handicapped, speech or and language impairment; a impaired, deaf or hard of hearing impairment, including deafness; a visual impairment, including blindness; a visually impaired, dual sensory impairment; a physical impairment; a serious emotional disturbance, including an emotional handicap; a impaired, physically impaired, emotionally handicapped, specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; disabled, hospitalized or homebound, or autism autistic.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.--The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) ~~By assigned school attendance area or by special~~

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117 ~~assignment,~~ The student has spent the prior school year in
118 attendance at a Florida public school or the Florida School for
119 the Deaf and the Blind. Prior school year in attendance means
120 that the student was:

121 1. Enrolled and reported by a school district for funding
122 during the preceding October and February Florida Education
123 Finance Program surveys in kindergarten through grade 12, which
124 shall include time spent in a Department of Juvenile Justice
125 commitment program if funded under the Florida Education Finance
126 Program;

127 2. Enrolled and reported by the Florida School for the Deaf
128 and the Blind during the preceding October and February student
129 membership surveys in kindergarten through grade 12; or

130 3. Enrolled and reported by a school district for funding
131 during the preceding October and February Florida Education
132 Finance Program surveys, at least 4 years old when so enrolled
133 and reported, and eligible for services under s. 1003.21(1)(e).
134

135 ~~However, this paragraph does not apply to a dependent child of a~~
136 ~~member of the United States Armed Forces who transfers to a~~
137 ~~school in this state from out of state or from a foreign country~~
138 ~~pursuant to a parent's permanent change of station orders is~~
139 ~~exempt from this paragraph but. A dependent child of a member of~~
140 ~~the United States Armed Forces who transfers to a school in this~~
141 ~~state from out of state or from a foreign country pursuant to a~~
142 ~~parent's permanent change of station orders must meet all other~~
143 ~~eligibility requirements to participate in the program.~~

144 (b) The parent has obtained acceptance for admission of the
145 student to a private school that is eligible for the program

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under subsection (8) ~~(4)~~ and has requested from the department
~~notified the school district of the request for a scholarship at~~
least 60 days prior to the date of the first scholarship payment.
The request ~~parental notification~~ must be through a communication
directly to the department ~~district or through the Department of~~
~~Education to the district~~ in a manner that creates a written or
electronic record of the request ~~notification~~ and the date of
receipt of the request ~~notification~~.

~~This section does not apply to a student who is enrolled in a
school operating for the purpose of providing educational
services to youth in Department of Juvenile Justice commitment
programs. For purposes of continuity of educational choice, the
scholarship shall remain in force until the student returns to a
public school or graduates from high school. However, at any
time, the student's parent may remove the student from the
private school and place the student in another private school
that is eligible for the program under subsection (4) or in a
public school as provided in subsection (3).~~

(3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.--A student is
not eligible for a John M. McKay Scholarship while he or she is:

(a) Enrolled in a school operating for the purpose of
providing educational services to youth in Department of Juvenile
Justice commitment programs;

(b) Receiving a corporate income tax credit scholarship
under s. 220.187;

(c) Receiving an educational scholarship pursuant to this
chapter;

(d) Participating in a home education program as defined in

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175 s. 1002.01(1);

176 (e) Participating in a private tutoring program pursuant to
177 s. 1002.43;

178 (f) Participating in a virtual school, correspondence
179 school, or distance learning program that receives state funding
180 pursuant to the student's participation unless the participation
181 is limited to no more than two courses per school year; or

182 (g) Enrolled in the Florida School for the Deaf and the
183 Blind.

184 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.--

185 (a) For purposes of continuity of educational choice, a
186 John M. McKay Scholarship shall remain in force until the student
187 returns to a public school, graduates from high school, or
188 reaches the age of 22, whichever occurs first.

189 (b) Upon reasonable notice to the department and the school
190 district, the student's parent may remove the student from the
191 private school and place the student in a public school in
192 accordance with this section.

193 (c) Upon reasonable notice to the department, the student's
194 parent may move the student from one participating private school
195 to another participating private school.

196 (5) ~~(3)~~ SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
197 OBLIGATIONS; PARENTAL OPTIONS.--

198 (a) 1. By April 1 of each year and within 10 days after an
199 individual education plan meeting, a school district shall ~~timely~~
200 notify the parent of the student of all options available
201 pursuant to this section, inform the parent of the availability
202 of the department's telephone hotline and Internet website for
203 additional information on John M. McKay Scholarships, and offer

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that student's parent an opportunity to enroll the student in another public school within the district.

2. The parent is not required to accept ~~the~~ this offer of enrolling in another public school in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school.

3. If the parent chooses a public school consistent with the district school board's choice plan under s. 1002.31, the school district shall provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the district school board's choice plan under s. 1002.31.

(b)1. For a student with disabilities who does not have a matrix of services under s. 1011.62(1)(e), the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year.

2.a. Within 10 school days after it receives notification of a parent's request for a John M. McKay Scholarship, a school district must notify the student's parent if the matrix of services has not been completed and inform the parent that the district is required to complete the matrix within 30 days after receiving notice of the parent's request for a John M. McKay Scholarship. This notice should include the required completion date for the matrix.

b. The school district must complete the matrix of services for any student who is participating in the John M. McKay

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233 Scholarships for Students with Disabilities Program and must
234 notify the department ~~of Education~~ of the student's matrix level
235 within 30 days after receiving notification of a request ~~by the~~
236 ~~student's parent of intent~~ to participate in the scholarship
237 program. The school district must provide the student's parent
238 with the student's matrix level within 10 school days after its
239 completion.

240 c. The department ~~of Education~~ shall notify the private
241 school of the amount of the scholarship within 10 days after
242 receiving the school district's notification of the student's
243 matrix level. ~~Within 10 school days after it receives~~
244 ~~notification of a parent's intent to apply for a McKay~~
245 ~~Scholarship, a district school board must notify the student's~~
246 ~~parent if the matrix has not been completed and provide the~~
247 ~~parent with the date for completion of the matrix required in~~
248 ~~this paragraph.~~

249 d. A school district may change a matrix of services only
250 if the change is to correct a technical, typographical, or
251 calculation error.

252 (c) A school district shall provide notification to parents
253 of the availability of a reevaluation at least every 3 years of
254 each student who receives a John M. McKay Scholarship.

255 (d) ~~(e)~~ If the parent chooses the private school option and
256 the student is accepted by the private school pending the
257 availability of a space for the student, the parent of the
258 student must notify the department ~~school district~~ 60 days prior
259 to the first scholarship payment and before entering the private
260 school in order to be eligible for the scholarship when a space
261 becomes available for the student in the private school.

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262 (e)~~(d)~~ The parent of a student may choose, as an
263 alternative, to enroll the student in and transport the student
264 to a public school in an adjacent school district which has
265 available space and has a program with the services agreed to in
266 the student's individual education plan already in place, and
267 that school district shall accept the student and report the
268 student for purposes of the district's funding pursuant to the
269 Florida Education Finance Program.

270 (f)~~(e)~~ For a student ~~in the district~~ who participates in
271 the John M. McKay Scholarships for Students with Disabilities
272 Program whose parent requests that the student take the statewide
273 assessments under s. 1008.22, the district in which the student
274 attends private school shall provide locations and times to take
275 all statewide assessments.

276 ~~(f) A school district must notify the Department of~~
277 ~~Education within 10 days after it receives notification of a~~
278 ~~parent's intent to apply for a scholarship for a student with a~~
279 ~~disability. A school district must provide the student's parent~~
280 ~~with the student's matrix level within 10 school days after its~~
281 ~~completion.~~

282 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.--The department
283 shall:

284 (a) Establish a toll-free hotline that provides parents and
285 private schools with information on participation in the John M.
286 McKay Scholarships for Students with Disabilities Program.

287 (b) Annually verify the eligibility of private schools that
288 meet the requirements of subsection (8).

289 (c) Establish a process by which individuals may notify the
290 department of any violation by a parent, private school, or

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291 school district of state laws relating to program participation.
292 The department shall conduct an inquiry of any written complaint
293 of a violation of this section, or make a referral to the
294 appropriate agency for an investigation, if the complaint is
295 signed by the complainant and is legally sufficient. A complaint
296 is legally sufficient if it contains ultimate facts that show
297 that a violation of this section or any rule adopted by the State
298 Board of Education has occurred. In order to determine legal
299 sufficiency, the department may require supporting information or
300 documentation from the complainant. A department inquiry is not
301 subject to the requirements of chapter 120.

302 (d) Require an annual, notarized, sworn compliance
303 statement by participating private schools certifying compliance
304 with state laws and shall retain such records.

305 (e) Cross-check the list of participating scholarship
306 students with the public school enrollment lists prior to the
307 first scholarship payment to avoid duplication.

308 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

309 (a) The Commissioner of Education shall deny, suspend, or
310 revoke a private school's participation in the scholarship
311 program if it is determined that the private school has failed to
312 comply with the provisions of this section. However, in instances
313 in which the noncompliance is correctable within a reasonable
314 amount of time and in which the health, safety, and welfare of
315 the students are not threatened, the commissioner may issue a
316 notice of noncompliance that shall provide the private school
317 with a timeframe within which to provide evidence of compliance
318 prior to taking action to suspend or revoke the private school's
319 participation in the scholarship program.

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320 (b) The commissioner's determination is subject to the
321 following:

322 1. If the commissioner intends to deny, suspend, or revoke
323 a private school's participation in the scholarship program, the
324 department shall notify the private school of such proposed
325 action in writing by certified mail and regular mail to the
326 private school's address of record with the department. The
327 notification shall include the reasons for the proposed action
328 and notice of the timelines and procedures set forth in this
329 paragraph.

330 2. The private school that is adversely affected by the
331 proposed action shall have 15 days from receipt of the notice of
332 proposed action to file with the department's agency clerk a
333 request for a proceeding pursuant to ss. 120.569 and 120.57. If
334 the private school is entitled to a hearing under s. 120.57(1),
335 the department shall forward the request to the Division of
336 Administrative Hearings.

337 3. Upon receipt of a request referred pursuant to this
338 paragraph, the director of the Division of Administrative
339 Hearings shall expedite the hearing and assign an administrative
340 law judge who shall commence a hearing within 30 days after the
341 receipt of the formal written request by the division and enter a
342 recommended order within 30 days after the hearing or within 30
343 days after receipt of the hearing transcript, whichever is later.
344 Each party shall be allowed 10 days in which to submit written
345 exceptions to the recommended order. A final order shall be
346 entered by the agency within 30 days after the entry of a
347 recommended order. The provisions of this subparagraph may be
348 waived upon stipulation by all parties.

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349 (c) The commissioner may immediately suspend payment of
350 scholarship funds if it is determined that there is probable
351 cause to believe that there is:

352 1. An imminent threat to the health, safety, and welfare of
353 the students; or

354 2. Fraudulent activity on the part of the private school.
355

356 The commissioner's order suspending payment pursuant to this
357 paragraph may be appealed pursuant to the same procedures and
358 timelines as the notice of proposed action set forth in paragraph
359 (b).

360 (8)-(4) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.--To be
361 eligible to participate in the John M. McKay Scholarships for
362 Students with Disabilities Program, a private school ~~must be a~~
363 ~~Florida private school,~~ may be sectarian or nonsectarian, and
364 must:

365 (a) Comply with all requirements for private schools
366 participating in state school choice scholarship programs
367 pursuant to s. 1002.421.

368 (b) Provide the department all documentation required for a
369 student's participation, including the private school's and
370 student's fee schedules, at least 30 days before the first
371 quarterly scholarship payment is made for the student.

372 (c) Be academically accountable to the parent for meeting
373 the educational needs of the student by:

374 1. At a minimum, annually providing to the parent a written
375 explanation of the student's progress.

376 2. Cooperating with the scholarship student whose parent
377 chooses to participate in the statewide assessments pursuant to

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378 s. 1008.22.

379
380 The inability of a private school to meet the requirements of
381 this subsection shall constitute a basis for the ineligibility of
382 the private school to participate in the scholarship program as
383 determined by the department.

384 ~~(a) Demonstrate fiscal soundness by being in operation for~~
385 ~~1 school year or provide the Department of Education with a~~
386 ~~statement by a certified public accountant confirming that the~~
387 ~~private school desiring to participate is insured and the owner~~
388 ~~or owners have sufficient capital or credit to operate the school~~
389 ~~for the upcoming year serving the number of students anticipated~~
390 ~~with expected revenues from tuition and other sources that may be~~
391 ~~reasonably expected. In lieu of such a statement, a surety bond~~
392 ~~or letter of credit for the amount equal to the scholarship funds~~
393 ~~for any quarter may be filed with the department.~~

394 ~~(b) Notify the Department of Education of its intent to~~
395 ~~participate in the program under this section. The notice must~~
396 ~~specify the grade levels and services that the private school has~~
397 ~~available for students with disabilities who are participating in~~
398 ~~the scholarship program.~~

399 ~~(c) Comply with the antidiscrimination provisions of 42~~
400 ~~U.S.C. s. 2000d.~~

401 ~~(d) Meet state and local health and safety laws and codes.~~

402 ~~(e) Be academically accountable to the parent for meeting~~
403 ~~the educational needs of the student.~~

404 ~~(f) Employ or contract with teachers who hold baccalaureate~~
405 ~~or higher degrees, or have at least 3 years of teaching~~
406 ~~experience in public or private schools, or have special skills,~~

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407 ~~knowledge, or expertise that qualifies them to provide~~
408 ~~instruction in subjects taught.~~

409 ~~(g) Comply with all state laws relating to general~~
410 ~~regulation of private schools.~~

411 ~~(h) Adhere to the tenets of its published disciplinary~~
412 ~~procedures prior to the expulsion of a scholarship student.~~

413 (9)(5) PARENT AND STUDENT RESPONSIBILITIES FOR OBLIGATION
414 ~~OF PROGRAM PARTICIPATION PARTICIPANTS.--~~A parent who applies for
415 a John M. McKay Scholarship is exercising his or her parental
416 option to place his or her child in a private school.

417 ~~(a) A parent who applies for a John M. McKay Scholarship is~~
418 ~~exercising his or her parental option to place his or her child~~
419 ~~in a private school.~~ The parent must select the private school
420 and apply for the admission of his or her child.

421 (b) The parent must have requested the scholarship at least
422 60 days prior to the date of the first scholarship payment.

423 (c) Any student participating in the John M. McKay
424 Scholarships for Students with Disabilities ~~scholarship~~ Program
425 must remain in attendance throughout the school year, unless
426 excused by the school for illness or other good cause, ~~and must~~
427 ~~comply fully with the school's code of conduct.~~

428 (d) Each ~~The~~ parent and ~~of~~ each student has an obligation
429 to the private school to participating in the scholarship program
430 ~~must~~ comply fully with the private school's published policies
431 ~~parental involvement requirements, unless excused by the school~~
432 ~~for illness or other good cause.~~

433 (e) If the parent requests that the student participating
434 in the John M. McKay Scholarships for Students with Disabilities
435 ~~scholarship~~ Program take all statewide assessments required

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pursuant to s. 1008.22, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school. The parent may not designate any entity or individual associated with the participating private school as the parent's attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

~~(g) A participant who fails to comply with this subsection forfeits the scholarship.~~

~~(10)(6)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.--

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. Except as provided in subparagraphs ~~subparagraph~~ 3. and 4., the calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of

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services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of supplemental academic instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

3. The calculated scholarship amount for a student who is eligible under subparagraph (2)(a)2. shall be calculated as provided in subparagraphs 1. and 2. However, the calculation shall be based on the school district in which the parent resides at the time of the scholarship request.

~~4.3.~~ Until the school district completes the matrix required by paragraph ~~(5)(3)~~(b), the calculation shall be based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment shall be adjusted as needed.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

~~(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of \$1,000, and deducted~~

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494 ~~from subsequent scholarship payments. If a student decides not to~~
495 ~~attend the participating private school, the partial reservation~~
496 ~~payment must be returned to the Department of Education by the~~
497 ~~participating private school. There is a limit of one reservation~~
498 ~~payment per student per year.~~

499 (c)1.(d) The school district shall report all students who
500 are attending a private school in the district under this
501 program. The students with disabilities attending private schools
502 on John M. McKay Scholarships shall be reported separately from
503 other students reported for purposes of the Florida Education
504 Finance Program.

505 2. For program participants who are eligible under
506 subparagraph (2)(a)2., the school district that is used as the
507 basis for the calculation of the scholarship amount as provided
508 in subparagraph (a)3. shall:

509 a. Report to the department all such students who are
510 attending a private school under this program.

511 b. Be held harmless for such students from the weighted
512 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.a.
513 during the first school year in which the students are reported.

514 (d)(e) Following notification on July 1, September 1,
515 December 1, or February 1 of the number of program participants,
516 the department ~~of Education~~ shall transfer, from General Revenue
517 funds only, the amount calculated under paragraph (b) from the
518 school district's total funding entitlement under the Florida
519 Education Finance Program and from authorized categorical
520 accounts to a separate account for the scholarship program for
521 quarterly disbursement to the parents of participating students.
522 Funds may not be transferred from any funding provided to the

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Florida School for the Deaf and the Blind for program
participants who are eligible under subparagraph (2)(a)2. For a
student exiting a Department of Juvenile Justice commitment
program who chooses to participate in the scholarship program,
the amount of the John M. McKay Scholarship calculated pursuant
to paragraph (b) shall be transferred from the school district in
which the student last attended a public school prior to
commitment to the Department of Juvenile Justice. When a student
enters the scholarship program, the department ~~of Education~~ must
receive all documentation required for the student's
participation, including the private school's and student's fee
schedules, at least 30 days before the first quarterly
scholarship payment is made for the student. ~~The Department of~~
~~Education may not make any retroactive payments.~~

~~(e)(f)~~ Upon notification ~~proper documentation reviewed and~~
~~approved~~ by the department that it has received the documentation
required under paragraph (d) ~~Department of Education~~, the Chief
Financial Officer shall make scholarship payments in four equal
amounts no later than September 1, November 1, February 1, and
April 1 ~~15~~ of each academic year in which the scholarship is in
force. The initial payment shall be made after department ~~of~~
~~Education~~ verification of admission acceptance, and subsequent
payments shall be made upon verification of continued enrollment
and attendance at the private school. Payment must be by
individual warrant made payable to the student's parent and
mailed by the department ~~of Education~~ to the private school of
the parent's choice, and the parent shall restrictively endorse
the warrant to the private school for deposit into the account of
the private school.

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552 (f) Subsequent to each scholarship payment, the Department
553 of Financial Services shall randomly review endorsed warrants to
554 confirm compliance with endorsement requirements. The Department
555 of Financial Services shall immediately report inconsistencies or
556 irregularities to the department.

557 (11)(7) LIABILITY.--No liability shall arise on the part of
558 the state based on the award or use of a John M. McKay
559 Scholarship.

560 (12) SCOPE OF AUTHORITY.--The inclusion of eligible private
561 schools within options available to Florida public school
562 students does not expand the regulatory authority of the state,
563 its officers, or any school district to impose any additional
564 regulation of private schools beyond those reasonably necessary
565 to enforce requirements expressly set forth in this section.

566 (13)(8) RULES.--The State Board of Education shall adopt
567 rules pursuant to ss. 120.536(1) and 120.54 to administer this
568 section, including rules that school districts must use to
569 expedite the development of a matrix of services based on an
570 active ~~a current~~ individual education plan from another state or
571 a foreign country for a transferring student with a disability
572 who is a dependent child of a member of the United States Armed
573 Forces. The rules must identify the appropriate school district
574 personnel who must complete the matrix of services. For purposes
575 of these rules, a transferring student with a disability is one
576 who was previously enrolled as a student with a disability in an
577 out-of-state or an out-of-country public or private school or
578 agency program and who is transferring from out of state or from
579 a foreign country pursuant to a parent's permanent change of
580 station orders. ~~However, the inclusion of eligible private~~

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~~schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.~~

Section 2. Section 220.187, Florida Statutes, is amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.--

(1) PURPOSE.--The purpose of this section is to:

(a) Encourage private, voluntary contributions to nonprofit scholarship-funding organizations.

(b) Expand educational opportunities for children of families that have limited financial resources.

(c) Enable children in this state to achieve a greater level of excellence in their education.

(2) DEFINITIONS.--As used in this section, the term:

(a) "Department" means the Department of Revenue.

(b) "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided in this section, to an eligible nonprofit scholarship-funding organization. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution. ~~The taxpayer may not contribute more than \$5 million to any single eligible nonprofit scholarship-funding organization.~~

(c) ~~(d)~~ "Eligible nonprofit scholarship-funding organization" means a charitable organization that:

1. Is exempt from federal income tax pursuant to s.

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501(c)(3) of the Internal Revenue Code.

2. Is a Florida entity formed under chapter 607, chapter 608, or chapter 617 and whose principal office is located in the state.

3. and that Complies with the provisions of subsection (6) ~~(4)~~.

(d)(e) "Eligible private nonprofit school" means a private nonprofit school, as defined in s. 1002.01(2), located in Florida that offers an education to students in any grades K-12 and that meets the requirements in subsection (8) ~~(6)~~.

(e) "Owner or operator" includes:

1. An owner, president, officer, or director of an eligible nonprofit scholarship-funding organization or a person with equivalent decisionmaking authority over an eligible nonprofit scholarship-funding organization.

2. An owner, operator, superintendent, or principal of an eligible private school or a person with equivalent decisionmaking authority over an eligible private school.

~~(e) "Qualified student" means a student who qualifies for free or reduced-price school lunches under the National School Lunch Act and who:~~

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.--The Corporate Income Tax Credit Scholarship Program is established. A student is eligible for a corporate income tax credit scholarship if the student qualifies for free or reduced-price school lunches under the National School Lunch Act and:

(a)1- Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;

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639 (b)2- Received a scholarship from an eligible nonprofit
640 scholarship-funding organization or from the State of Florida
641 during the previous school year; or

642 (c)3- Is eligible to enter kindergarten or first grade.

643
644 Contingent upon available funds, a student may continue in the
645 scholarship program as long as the student's family income level
646 does not exceed 200 percent of the federal poverty level.

647 (4) SCHOLARSHIP PROHIBITIONS.--A student is not eligible
648 for a scholarship while he or she is:

649 (a) Enrolled in a school operating for the purpose of
650 providing educational services to youth in Department of Juvenile
651 Justice commitment programs;

652 (b) Receiving a scholarship from another eligible nonprofit
653 scholarship-funding organization under this section;

654 (c) Receiving an educational scholarship pursuant to
655 chapter 1002;

656 (d) Participating in a home education program as defined in
657 s. 1002.01(1);

658 (e) Participating in a private tutoring program pursuant to
659 s. 1002.43;

660 (f) Participating in a virtual school, correspondence
661 school, or distance learning program that receives state funding
662 pursuant to the student's participation unless the participation
663 is limited to no more than two courses per school year; or

664 (g) Enrolled in the Florida School for the Deaf and the
665 Blind.

666 (5)(3)- AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX
667 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.--

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668 (a) There is allowed a credit of 100 percent of an eligible
669 contribution against any tax due for a taxable year under this
670 chapter. However, such a credit may not exceed 75 percent of the
671 tax due under this chapter for the taxable year, after the
672 application of any other allowable credits by the taxpayer.
673 ~~However, at least 5 percent of the total statewide amount~~
674 ~~authorized for the tax credit shall be reserved for taxpayers who~~
675 ~~meet the definition of a small business provided in s. 288.703(1)~~
676 ~~at the time of application.~~ The credit granted by this section
677 shall be reduced by the difference between the amount of federal
678 corporate income tax taking into account the credit granted by
679 this section and the amount of federal corporate income tax
680 without application of the credit granted by this section.

681 (b) The total amount of tax credits and carryforward of tax
682 credits which may be granted ~~each state fiscal year~~ under this
683 section is \$88 million during the 2006-2007 fiscal year. The
684 total amount of tax credits and carryforward of tax credits which
685 may be granted under this section shall be adjusted each year
686 thereafter, should the prior year's total tax credit and
687 carryforward tax credit limits be obtained, by the same
688 percentage as the increase or decrease in total funding, adjusted
689 for Florida Retirement System changes if applicable, under the
690 Florida Education Finance Program as provided in the General
691 Appropriations Act workpapers. However, the total amount of tax
692 credits that may be granted pursuant to this paragraph may not
693 increase by more than 5 percent in any year. The Commissioner of
694 Education shall certify to the department and notify eligible
695 nonprofit scholarship-funding organizations of the resulting
696 value of tax credits that may be granted within 30 days after the

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697 General Appropriations Act becomes law. However, at least 1
698 percent of the total statewide amount authorized for the tax
699 credit shall be reserved for taxpayers who meet the definition of
700 a small business provided in s. 288.703(1) at the time of
701 application.

702 (c) A taxpayer who files a Florida consolidated return as a
703 member of an affiliated group pursuant to s. 220.131(1) may be
704 allowed the credit on a consolidated return basis; however, the
705 total credit taken by the affiliated group is subject to the
706 limitation established under paragraph (a).

707 (d) Effective for tax years beginning January 1, 2006, a
708 taxpayer may rescind all or part of its allocated tax credit
709 under this section. The amount rescinded shall become available
710 for purposes of the cap for that state fiscal year under this
711 section to an eligible taxpayer as approved by the department if
712 the taxpayer receives notice from the department that the
713 rescindment has been accepted by the department and the taxpayer
714 has not previously rescinded any or all of its tax credit
715 allocation under this section more than once in the previous 3
716 tax years. Any amount rescinded under this paragraph shall become
717 available to an eligible taxpayer on a first-come, first-served
718 basis based on tax credit applications received after the date
719 the rescindment is accepted by the department.

720 (6)(4) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-
721 FUNDING ORGANIZATIONS.--An eligible nonprofit scholarship-funding
722 organization:

723 (a) Must comply with the antidiscrimination provisions of
724 42 U.S.C. s. 2000d.

725 (b) Must comply with the following background check

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726 requirements:

727 1. All owners and operators as defined in subparagraph
728 (2)(e)1. are subject to level 2 background screening as provided
729 under chapter 435. The fingerprints for the background screening
730 must be electronically submitted to the Department of Law
731 Enforcement and can be taken by an authorized law enforcement
732 agency or by an employee of the eligible nonprofit scholarship-
733 funding organization or a private company who is trained to take
734 fingerprints. However, the complete set of fingerprints of an
735 owner or operator may not be taken by the owner or operator. The
736 results of the state and national criminal history check shall be
737 provided to the Department of Education for screening under
738 chapter 435. The cost of the background screening may be borne by
739 the eligible nonprofit scholarship-funding organization or the
740 owner or operator.

741 2. Every 5 years following employment or engagement to
742 provide services or association with an eligible nonprofit
743 scholarship-funding organization, each owner or operator must
744 meet level 2 screening standards as described in s. 435.04, at
745 which time the nonprofit scholarship-funding organization shall
746 request the Department of Law Enforcement to forward the
747 fingerprints to the Federal Bureau of Investigation for level 2
748 screening. If the fingerprints of an owner or operator are not
749 retained by the Department of Law Enforcement under subparagraph
750 3., the owner or operator must electronically file a complete set
751 of fingerprints with the Department of Law Enforcement. Upon
752 submission of fingerprints for this purpose, the eligible
753 nonprofit scholarship-funding organization shall request that the
754 Department of Law Enforcement forward the fingerprints to the

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755 Federal Bureau of Investigation for level 2 screening, and the
756 fingerprints shall be retained by the Department of Law
757 Enforcement under subparagraph 3.

758 3. Beginning July 1, 2007, all fingerprints submitted to
759 the Department of Law Enforcement as required by this paragraph
760 must be retained by the Department of Law Enforcement in a manner
761 approved by rule and entered in the statewide automated
762 fingerprint identification system authorized by s. 943.05(2)(b).
763 The fingerprints must thereafter be available for all purposes
764 and uses authorized for arrest fingerprint cards entered in the
765 statewide automated fingerprint identification system pursuant to
766 s. 943.051.

767 4. Beginning July 1, 2007, the Department of Law
768 Enforcement shall search all arrest fingerprint cards received
769 under s. 943.051 against the fingerprints retained in the
770 statewide automated fingerprint identification system under
771 subparagraph 3. Any arrest record that is identified with an
772 owner's or operator's fingerprints must be reported to the
773 Department of Education. The Department of Education shall
774 participate in this search process by paying an annual fee to the
775 Department of Law Enforcement and by informing the Department of
776 Law Enforcement of any change in the employment, engagement, or
777 association status of the owners or operators whose fingerprints
778 are retained under subparagraph 3. The Department of Law
779 Enforcement shall adopt a rule setting the amount of the annual
780 fee to be imposed upon the Department of Education for performing
781 these services and establishing the procedures for the retention
782 of owner and operator fingerprints and the dissemination of
783 search results. The fee may be borne by the owner or operator of

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784 the nonprofit scholarship-funding organization.

785 5. A nonprofit scholarship-funding organization whose owner
786 or operator fails the level 2 background screening shall not be
787 eligible to provide scholarships under this section.

788 6. A nonprofit scholarship-funding organization whose owner
789 or operator in the last 7 years has filed for personal bankruptcy
790 or corporate bankruptcy in a corporation of which he or she owned
791 more than 20 percent shall not be eligible to provide
792 scholarships under this section.

793 (c) Must not have an owner or operator who owns or operates
794 an eligible private school that is participating in the
795 scholarship program.

796 (d)-(a) Must ~~An eligible nonprofit scholarship funding~~
797 ~~organization shall~~ provide scholarships, from eligible
798 contributions, to eligible ~~qualified~~ students for:

799 1. Tuition or textbook expenses for, or transportation to,
800 an eligible private ~~nonpublic~~ school. At least 75 percent of the
801 scholarship funding must be used to pay tuition expenses; or

802 2. Transportation expenses to a Florida public school that
803 is located outside the district in which the student resides or
804 to a lab school as defined in s. 1002.32.

805 (e)-(b) Must ~~An eligible nonprofit scholarship funding~~
806 ~~organization shall~~ give priority to eligible ~~qualified~~ students
807 who received a scholarship from an eligible nonprofit
808 scholarship-funding organization or from the State of Florida
809 during the previous school year.

810 (f) Must provide a scholarship to an eligible student on a
811 first-come, first-served basis unless the student qualifies for
812 priority pursuant to paragraph (e).

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813 (g) May not restrict or reserve scholarships for use at a
814 particular private school or provide scholarships to a child of
815 an owner or operator.

816 (h) Must allow an eligible student to attend any eligible
817 private school and must allow a parent to transfer a scholarship
818 during a school year to any other eligible private school of the
819 parent's choice.

820 ~~(c) The amount of a scholarship provided to any child for~~
821 ~~any single school year by all eligible nonprofit scholarship~~
822 ~~funding organizations from eligible contributions shall not~~
823 ~~exceed the following annual limits:~~

824 ~~1. Three thousand five hundred dollars for a scholarship~~
825 ~~awarded to a student enrolled in an eligible nonpublic school.~~

826 ~~2. Five hundred dollars for a scholarship awarded to a~~
827 ~~student enrolled in a Florida public school that is located~~
828 ~~outside the district in which the student resides.~~

829 ~~(d) The amount of an eligible contribution which may be~~
830 ~~accepted by an eligible nonprofit scholarship funding~~
831 ~~organization is limited to the amount needed to provide~~
832 ~~scholarships for qualified students which the organization has~~
833 ~~identified and for which vacancies in eligible nonpublic schools~~
834 ~~have been identified.~~

835 (i)(e) Must obligate, in the same fiscal year in which the
836 contribution was received, An eligible nonprofit scholarship-
837 funding organization that receives an eligible contribution must
838 spend 100 percent of the eligible contribution to provide
839 scholarships; however, up to 25 percent of the total contribution
840 may be carried forward for scholarships to be granted in the
841 following same state fiscal year in which the contribution was

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842 ~~received~~. No portion of eligible contributions may be used for
843 administrative expenses. All interest accrued from contributions
844 must be used for scholarships.

845 (j) Must maintain separate accounts for scholarship funds
846 and operating funds.

847 (k) With the prior approval of the Department of Education,
848 may transfer funds to another eligible nonprofit scholarship-
849 funding organization if additional funds are required to meet
850 scholarship demand at the receiving nonprofit scholarship-funding
851 organization. A transfer shall be limited to the greater of
852 \$500,000 or 20 percent of the total contributions received by the
853 nonprofit scholarship-funding organization making the transfer.
854 All transferred funds must be deposited by the receiving
855 nonprofit scholarship-funding organization into its scholarship
856 accounts. All transferred amounts received by any nonprofit
857 scholarship-funding organization must be separately disclosed in
858 the annual financial and compliance audit required in this
859 section.

860 (l) ~~(f)~~ An eligible nonprofit scholarship funding
861 organization that receives eligible contributions Must provide to
862 the Auditor General and the Department of Education an annual
863 financial and compliance audit of its accounts and records
864 conducted by an independent certified public accountant and in
865 accordance with rules adopted by the Auditor General. The audit
866 must be conducted in compliance with generally accepted auditing
867 standards and must include a report on financial statements
868 presented in accordance with generally accepted accounting
869 principles set forth by the American Institute of Certified
870 Public Accountants for not-for-profit organizations and a

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determination of compliance with the statutory eligibility and
expenditure requirements set forth in this section. Audits must
be provided to the Auditor General and the Department of
Education within 180 days after completion of the eligible
nonprofit scholarship-funding organization's fiscal year.

(m) Must prepare and submit quarterly reports to the
Department of Education pursuant to paragraph (9)(m). In
addition, an eligible nonprofit scholarship-funding organization
must submit in a timely manner any information requested by the
Department of Education relating to the scholarship program.

Any and all information and documentation provided to the
Department of Education and the Auditor General relating to the
identity of a taxpayer that provides an eligible contribution
under this section shall remain confidential at all times in
accordance with s. 213.053.

~~(g) Payment of the scholarship by the eligible nonprofit~~
~~scholarship funding organization shall be by individual warrant~~
~~or check made payable to the student's parent. If the parent~~
~~chooses for his or her child to attend an eligible nonpublic~~
~~school, the warrant or check must be mailed by the eligible~~
~~nonprofit scholarship funding organization to the nonpublic~~
~~school of the parent's choice, and the parent shall restrictively~~
~~endorse the warrant or check to the nonpublic school. An eligible~~
~~nonprofit scholarship funding organization shall ensure that,~~
~~upon receipt of a scholarship warrant or check, the parent to~~
~~whom the warrant or check is made restrictively endorses the~~
~~warrant or check to the nonpublic school of the parent's choice~~
~~for deposit into the account of the nonpublic school.~~

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900 (7)~~(5)~~ PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
901 PARTICIPATION OBLIGATIONS.--

902 (a) The parent must select an eligible private school and
903 apply for the admission of his or her child.

904 (b) The parent must inform the child's school district when
905 the parent withdraws his or her child to attend an eligible
906 private school.

907 (c) Any student participating in the scholarship program
908 must remain in attendance throughout the school year unless
909 excused by the school for illness or other good cause.

910 (d) Each parent and each student has an obligation to the
911 private school to comply with the private school's published
912 policies.

913 (e) The parent shall ensure that the student participating
914 in the scholarship program takes the norm-referenced assessment
915 offered by the private school. The parent may also choose to have
916 the student participate in the statewide assessments pursuant to
917 s. 1008.22. If the parent requests that the student participating
918 in the scholarship program take statewide assessments pursuant to
919 s. 1008.22, the parent is responsible for transporting the
920 student to the assessment site designated by the school district.

921 (f) Upon receipt of a scholarship warrant from the eligible
922 nonprofit scholarship-funding organization, the parent to whom
923 the warrant is made must restrictively endorse the warrant to the
924 private school for deposit into the account of the private
925 school. The parent may not designate any entity or individual
926 associated with the participating private school as the parent's
927 attorney in fact to endorse a scholarship warrant. A participant
928 who fails to comply with this paragraph forfeits the scholarship.

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As a condition for scholarship payment pursuant to paragraph (4)(g), if the parent chooses for his or her child to attend an eligible nonpublic school, the parent must inform the child's school district within 15 days after such decision.

(8)(6) PRIVATE ELIGIBLE NONPUBLIC SCHOOL ELIGIBILITY AND OBLIGATIONS.--An eligible private nonpublic school may be sectarian or nonsectarian and must:

(a) Comply with all requirements for private schools participating in state school choice scholarship programs pursuant to s. 1002.421.

(b) Provide to the eligible nonprofit scholarship-funding organization, upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Annually administering or making provision for students participating in the scholarship program to take one of the nationally norm-referenced tests identified by the Department of Education. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent and to the independent research organization selected by the Department of Education as described in paragraph (9)(j).

3. Cooperating with the scholarship student whose parent chooses to participate in the statewide assessments pursuant to s. 1008.32.

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958
959 The inability of a private school to meet the requirements of
960 this subsection shall constitute a basis for the ineligibility of
961 the private school to participate in the scholarship program as
962 determined by the Department of Education.

963 ~~(a) Demonstrate fiscal soundness by being in operation for~~
964 ~~one school year or provide the Department of Education with a~~
965 ~~statement by a certified public accountant confirming that the~~
966 ~~nonpublic school desiring to participate is insured and the owner~~
967 ~~or owners have sufficient capital or credit to operate the school~~
968 ~~for the upcoming year serving the number of students anticipated~~
969 ~~with expected revenues from tuition and other sources that may be~~
970 ~~reasonably expected. In lieu of such a statement, a surety bond~~
971 ~~or letter of credit for the amount equal to the scholarship funds~~
972 ~~for any quarter may be filed with the department.~~

973 ~~(b) Comply with the antidiscrimination provisions of 42~~
974 ~~U.S.C. s. 2000d.~~

975 ~~(c) Meet state and local health and safety laws and codes.~~

976 ~~(d) Comply with all state laws relating to general~~
977 ~~regulation of nonpublic schools.~~

978 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.--The Department of
979 Education shall:

980 (a) Annually submit to the department, by March 15, a list
981 of eligible nonprofit scholarship-funding organizations that meet
982 the requirements of paragraph (2)(c).

983 (b) Annually verify the eligibility of nonprofit
984 scholarship-funding organizations that meet the requirements of
985 paragraph (2)(c).

986 (c) Annually verify the eligibility of private schools that

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987 meet the requirements of subsection (8).

988 (d) Annually verify the eligibility of expenditures as
989 provided in paragraph (6)(d) using the audit required by
990 paragraph (6)(l).

991 (e) Establish a toll-free hotline that provides parents and
992 private schools with information on participation in the
993 scholarship program.

994 (f) Establish a process by which individuals may notify the
995 Department of Education of any violation by a parent, private
996 school, or school district of state laws relating to program
997 participation. The Department of Education shall conduct an
998 inquiry of any written complaint of a violation of this section,
999 or make a referral to the appropriate agency for an
1000 investigation, if the complaint is signed by the complainant and
1001 is legally sufficient. A complaint is legally sufficient if it
1002 contains ultimate facts that show that a violation of this
1003 section or any rule adopted by the State Board of Education has
1004 occurred. In order to determine legal sufficiency, the Department
1005 of Education may require supporting information or documentation
1006 from the complainant. A department inquiry is not subject to the
1007 requirements of chapter 120.

1008 (g) Require an annual, notarized, sworn compliance
1009 statement by participating private schools certifying compliance
1010 with state laws and shall retain such records.

1011 (h) Cross-check the list of participating scholarship
1012 students with the public school enrollment lists to avoid
1013 duplication.

1014 (i) In accordance with State Board of Education rule,
1015 identify and select the nationally norm-referenced tests that are

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1016 comparable to the norm-referenced provisions of the Florida
1017 Comprehensive Assessment Test (FCAT) provided that the FCAT may
1018 be one of the tests selected. However, the Department of
1019 Education may approve the use of an additional assessment by the
1020 school if the assessment meets industry standards of quality and
1021 comparability.

1022 (j) Select an independent research organization, which may
1023 be a public or private entity or university, to which
1024 participating private schools must report the scores of
1025 participating students on the nationally norm-referenced tests
1026 administered by the private school. The independent research
1027 organization must annually report to the Department of Education
1028 on the year-to-year improvements of participating students. The
1029 independent research organization must analyze and report student
1030 performance data in a manner that protects the rights of students
1031 and parents as mandated in 20 U.S.C. s. 1232g, the Family
1032 Educational Rights and Privacy Act, and must not disaggregate
1033 data to a level that will disclose the academic level of
1034 individual students or of individual schools. To the extent
1035 possible, the independent research organization must accumulate
1036 historical performance data on students from the Department of
1037 Education and private schools to describe baseline performance
1038 and to conduct longitudinal studies. To minimize costs and reduce
1039 time required for third-party analysis and evaluation, the
1040 Department of Education shall conduct analyses of matched
1041 students from public school assessment data and calculate control
1042 group learning gains using an agreed-upon methodology outlined in
1043 the contract with the third-party evaluator. The sharing of
1044 student data must be in accordance with requirements of 20 U.S.C.

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s. 1232g, the Family Educational Rights and Privacy Act, and shall be for the sole purpose of conducting the evaluation. All parties must preserve the confidentiality of such information as required by law.

(k) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving educational scholarships pursuant to chapter 1002.

(l) Notify an eligible nonprofit scholarship-funding organization of any of the organization's identified students who are receiving corporate income tax credit scholarships from other eligible nonprofit scholarship-funding organizations.

(m) Require quarterly reports by an eligible nonprofit scholarship-funding organization regarding the number of students participating in the scholarship program, the private schools at which the students are enrolled, and other information deemed necessary by the Department of Education.

(10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

(a) The Commissioner of Education shall deny, suspend, or revoke a private school's participation in the scholarship program if it is determined that the private school has failed to comply with the provisions of this section. However, in instances in which the noncompliance is correctable within a reasonable amount of time and in which the health, safety, and welfare of the students are not threatened, the commissioner may issue a notice of noncompliance that shall provide the private school with a timeframe within which to provide evidence of compliance prior to taking action to suspend or revoke the private school's participation in the scholarship program.

(b) The commissioner's determination is subject to the

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1074 following:

1075 1. If the commissioner intends to deny, suspend, or revoke
1076 a private school's participation in the scholarship program, the
1077 Department of Education shall notify the private school of such
1078 proposed action in writing by certified mail and regular mail to
1079 the private school's address of record with the Department of
1080 Education. The notification shall include the reasons for the
1081 proposed action and notice of the timelines and procedures set
1082 forth in this paragraph.

1083 2. The private school that is adversely affected by the
1084 proposed action shall have 15 days from receipt of the notice of
1085 proposed action to file with the Department of Education's agency
1086 clerk a request for a proceeding pursuant to ss. 120.569 and
1087 120.57. If the private school is entitled to a hearing under s.
1088 120.57(1), the Department of Education shall forward the request
1089 to the Division of Administrative Hearings.

1090 3. Upon receipt of a request referred pursuant to this
1091 paragraph, the director of the Division of Administrative
1092 Hearings shall expedite the hearing and assign an administrative
1093 law judge who shall commence a hearing within 30 days after the
1094 receipt of the formal written request by the division and enter a
1095 recommended order within 30 days after the hearing or within 30
1096 days after receipt of the hearing transcript, whichever is later.
1097 Each party shall be allowed 10 days in which to submit written
1098 exceptions to the recommended order. A final order shall be
1099 entered by the agency within 30 days after the entry of a
1100 recommended order. The provisions of this subparagraph may be
1101 waived upon stipulation by all parties.

1102 (c) The commissioner may immediately suspend payment of

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scholarship funds if it is determined that there is probable cause to believe that there is:

1. An imminent threat to the health, safety, and welfare of the students; or

2. Fraudulent activity on the part of the private school.

The commissioner's order suspending payment pursuant to this paragraph may be appealed pursuant to the same procedures and timelines as the notice of proposed action set forth in paragraph (b).

(11) SCHOLARSHIP AMOUNT AND PAYMENT.--

(a) The amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall not exceed the following annual limits:

1. Three thousand seven hundred fifty dollars for a scholarship awarded to a student enrolled in an eligible private school.

2. Five hundred dollars for a scholarship awarded to a student enrolled in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. 1002.32.

(b) Payment of the scholarship by the eligible nonprofit scholarship-funding organization shall be by individual warrant made payable to the student's parent. If the parent chooses for his or her child to attend an eligible private school, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to

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1132 the private school. An eligible nonprofit scholarship-funding
1133 organization shall ensure that the parent to whom the warrant is
1134 made restrictively endorsed the warrant to the private school for
1135 deposit into the account of the private school.

1136 (c) An eligible nonprofit scholarship-funding organization
1137 shall obtain verification from the private school of a student's
1138 continued attendance at the school prior to each scholarship
1139 payment.

1140 (d) Payment of the scholarship shall be made by the
1141 eligible nonprofit scholarship-funding organization no less
1142 frequently than on a quarterly basis.

1143 (12)(7) ADMINISTRATION; RULES.--

1144 (a) If the credit granted pursuant to this section is not
1145 fully used in any one year because of insufficient tax liability
1146 on the part of the corporation, the unused amount may be carried
1147 forward for a period not to exceed 3 years; however, any taxpayer
1148 that seeks to carry forward an unused amount of tax credit must
1149 submit an application for allocation of tax credits or
1150 carryforward credits as required in paragraph (d) in the year
1151 that the taxpayer intends to use the carryforward ~~carry forward~~.
1152 ~~The total amount of tax credits and carryforward of tax credits~~
1153 ~~granted each state fiscal year under this section is \$88 million.~~
1154 This carryforward applies to all approved contributions made
1155 after January 1, 2002. A taxpayer may not convey, assign, or
1156 transfer the credit authorized by this section to another entity
1157 unless all of the assets of the taxpayer are conveyed, assigned,
1158 or transferred in the same transaction.

1159 (b) An application for a tax credit pursuant to this
1160 section shall be submitted to the department on forms established

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1161 by rule of the department.

1162 (c) The department and the Department of Education shall
1163 develop a cooperative agreement to assist in the administration
1164 of this section. ~~The Department of Education shall be responsible~~
1165 ~~for annually submitting, by March 15, to the department a list of~~
1166 ~~eligible nonprofit scholarship funding organizations that meet~~
1167 ~~the requirements of paragraph (2)(d) and for monitoring~~
1168 ~~eligibility of nonprofit scholarship funding organizations that~~
1169 ~~meet the requirements of paragraph (2)(d), eligibility of~~
1170 ~~nonpublic schools that meet the requirements of paragraph (2)(c),~~
1171 ~~and eligibility of expenditures under this section as provided in~~
1172 ~~subsection (4).~~

1173 (d) The department shall adopt rules necessary to
1174 administer this section, including rules establishing application
1175 forms and procedures and governing the allocation of tax credits
1176 and carryforward credits under this section on a first-come,
1177 first-served basis.

1178 (e) The State Board ~~Department~~ of Education shall adopt
1179 rules pursuant to ss. 120.536(1) and 120.54 ~~necessary to~~
1180 ~~administer this section as it relates to the roles of the~~
1181 Department of Education and the Commissioner of Education
1182 ~~determine eligibility of nonprofit scholarship funding~~
1183 ~~organizations as defined in paragraph (2)(d) and according to the~~
1184 ~~provisions of subsection (4) and identify qualified students as~~
1185 ~~defined in paragraph (2)(e).~~

1186 (13)(8) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.--All eligible
1187 contributions received by an eligible nonprofit scholarship-
1188 funding organization shall be deposited in a manner consistent
1189 with s. 17.57(2).

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1190 Section 3. Section 1002.421, Florida Statutes, is created
1191 to read:

1192 1002.421 Rights and obligations of private schools
1193 participating in state school choice scholarship programs.--

1194 (1) A Florida private school participating in the Corporate
1195 Income Tax Credit Scholarship Program established pursuant to s.
1196 220.187 or an educational scholarship program established
1197 pursuant to this chapter must comply with all requirements of
1198 this section in addition to private school requirements outlined
1199 in s. 1002.42, specific requirements identified within respective
1200 scholarship program laws, and other provisions of Florida law
1201 that apply to private schools.

1202 (2) A private school participating in a scholarship program
1203 must be a Florida private school as defined in s. 1002.01(2),
1204 must be registered in accordance with s. 1002.42, and must:

1205 (a) Comply with antidiscrimination provisions of 42 U.S.C.
1206 s. 2000d.

1207 (b) Notify the department of its intent to participate in a
1208 scholarship program.

1209 (c) Notify the department of any change in the school's
1210 name, school director, mailing address, or physical location
1211 within 15 days after the change.

1212 (d) Complete student enrollment and attendance verification
1213 requirements, including use of an on-line attendance verification
1214 form, prior to scholarship payment.

1215 (e) Annually complete and submit to the department a
1216 notarized scholarship compliance statement certifying that all
1217 school employees and contracted personnel with direct student
1218 contact have undergone background screening pursuant to s.

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1219 943.0542.

1220 (f) Demonstrate fiscal soundness and accountability by:

1221 1. Being in operation for at least 3 school years or
1222 obtaining a surety bond or letter of credit for the amount equal
1223 to the scholarship funds for any quarter and filing the surety
1224 bond or letter of credit with the department.

1225 2. Requiring the parent of each scholarship student to
1226 personally restrictively endorse the scholarship warrant to the
1227 school. The school may not act as attorney in fact for the parent
1228 of a scholarship student under the authority of a power of
1229 attorney executed by such parent, or under any other authority,
1230 to endorse scholarship warrants on behalf of such parent.

1231 (g) Meet applicable state and local health, safety, and
1232 welfare laws, codes, and rules, including:

1233 1. Fire safety.

1234 2. Building safety.

1235 (h) Employ or contract with teachers who hold baccalaureate
1236 or higher degrees, have at least 3 years of teaching experience
1237 in public or private schools, or have special skills, knowledge,
1238 or expertise that qualifies them to provide instruction in
1239 subjects taught.

1240 (i) Require each employee and contracted personnel with
1241 direct student contact to undergo a state and national background
1242 screening, pursuant to s. 943.0542, by electronically filing with
1243 the Department of Law Enforcement a complete set of fingerprints
1244 taken by an authorized law enforcement agency or an employee of
1245 the private school, a school district, or a private company who
1246 is trained to take fingerprints and to be denied employment or
1247 terminated if he or she fails to meet the screening standards

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1248 under s. 435.04. Results of the screening shall be provided to
1249 the participating private school. For purposes of this paragraph:

1250 1. An "employee or contracted personnel with direct student
1251 contact" means any employee or contracted personnel who has
1252 unsupervised access to a scholarship student for whom the private
1253 school is responsible.

1254 2. The costs of fingerprinting and the background check
1255 shall not be borne by the state.

1256 3. Continued employment of an employee or contracted
1257 personnel after notification that he or she has failed the
1258 background screening under this paragraph shall cause a private
1259 school to be ineligible for participation in a scholarship
1260 program.

1261 4. An employee or contracted personnel holding a valid
1262 Florida teaching certificate who has been fingerprinted pursuant
1263 to s. 1012.32 shall not be required to comply with the provisions
1264 of this paragraph.

1265 (3)(a) Beginning July 1, 2007, all fingerprints submitted
1266 to the Department of Law Enforcement as required by this section
1267 shall be retained by the Department of Law Enforcement in a
1268 manner provided by rule and entered in the statewide automated
1269 fingerprint identification system authorized by s. 943.05(2)(b).
1270 Such fingerprints shall thereafter be available for all purposes
1271 and uses authorized for arrest fingerprint cards entered in the
1272 statewide automated fingerprint identification system pursuant to
1273 s. 943.051.

1274 (b) Beginning July 1, 2007, the Department of Law
1275 Enforcement shall search all arrest fingerprint cards received
1276 under s. 943.051 against the fingerprints retained in the

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1277 statewide automated fingerprint identification system under
1278 paragraph (a). Any arrest record that is identified with the
1279 retained fingerprints of a person subject to the background
1280 screening under this section shall be reported to the employing
1281 school with which the person is affiliated. Each private school
1282 participating in a scholarship program is required to participate
1283 in this search process by informing the Department of Law
1284 Enforcement of any change in the employment or contractual status
1285 of its personnel whose fingerprints are retained under paragraph
1286 (a). The Department of Law Enforcement shall adopt a rule setting
1287 the amount of the annual fee to be imposed upon each private
1288 school for performing these searches and establishing the
1289 procedures for the retention of private school employee and
1290 contracted personnel fingerprints and the dissemination of search
1291 results. The fee may be borne by the private school or the person
1292 fingerprinted.

1293 (c) Employees and contracted personnel whose fingerprints
1294 are not retained by the Department of Law Enforcement under
1295 paragraphs (a) and (b) are required to be refingerprinted and
1296 must meet state and national background screening requirements
1297 upon reemployment or reengagement to provide services in order to
1298 comply with the requirements of this section.

1299 (d) Every 5 years following employment or engagement to
1300 provide services with a private school, employees or contracted
1301 personnel required to be screened under this section must meet
1302 screening standards under s. 435.04, at which time the private
1303 school shall request the Department of Law Enforcement to forward
1304 the fingerprints to the Federal Bureau of Investigation for
1305 national processing. If the fingerprints of employees or

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1306 contracted personnel are not retained by the Department of Law
1307 Enforcement under paragraph (a), employees and contracted
1308 personnel must electronically file a complete set of fingerprints
1309 with the Department of Law Enforcement. Upon submission of
1310 fingerprints for this purpose, the private school shall request
1311 that the Department of Law Enforcement forward the fingerprints
1312 to the Federal Bureau of Investigation for national processing,
1313 and the fingerprints shall be retained by the Department of Law
1314 Enforcement under paragraph (a).

1315 (4) The inability of a private school to meet the
1316 requirements of this section shall constitute a basis for the
1317 ineligibility of the private school to participate in a
1318 scholarship program as determined by the department.

1319 (5) The inclusion of eligible private schools within
1320 options available to Florida public school students does not
1321 expand the regulatory authority of the state, its officers, or
1322 any school district to impose any additional regulation of
1323 private schools beyond those reasonably necessary to enforce
1324 requirements expressly set forth in this section.

1325 (6) The State Board of Education shall adopt rules pursuant
1326 to ss. 120.536(1) and 120.54 to administer this section.

1327 Section 4. This act shall take effect July 1, 2006.